

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

ALONZO AUSTIN, etc.,)	
)	
Plaintiff,)	
)	
v.)	CASE NO. 3:07cv138-MHT
)	
MODERN WOODMAN OF AMERICA; et al.,)	
)	
Defendants.)	

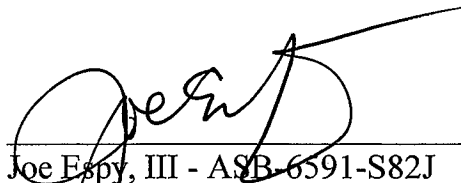
MOTION TO DISMISS

COME NOW the Defendants, **Fred Gray, Sr.** and **Allan Nathanson**, and move to dismiss the complaint and all aspects thereof related to them. The following grounds are assigned:

1. The complaint affirmatively shows on its face that the complaint and all claims asserted against these Defendants are barred by the applicable statute of limitations.
2. The complaint and all aspects thereof as to these Defendants are barred pursuant to *Code of Alabama*, 1975, §§ 6-2-34 and 38.
3. Lack of subject matter jurisdiction.
4. The complaint fails to state a claim against these Defendants upon which relief may be granted.

5. These Defendants have not been involved nor have they participated in the matters alleged in the complaint. Attached hereto and made a part hereof are the Affidavits of Fred Gray, Sr. and Allan Nathanson.

Respectfully submitted,



Joe Espy, III - ASB-6591-S82J
Attorney for Defendants
Fred Gray, Sr. and Allan Nathanson

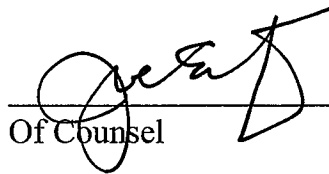
OF COUNSEL:

MELTON, ESPY & WILLIAMS, P.C.
P.O. Drawer 5130
Montgomery, AL 36103
Telephone: 334-263-6621
Facsimile: 334-263-7252
jespy@mewlegal.com

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing upon all listed below via regular mail, postage prepaid and properly addressed on this the 12 day of March, 2007.

Alonzo Austin - Pro Se
1321 Oliver Carlis Road
Tuskegee, AL 36083


Of Counsel

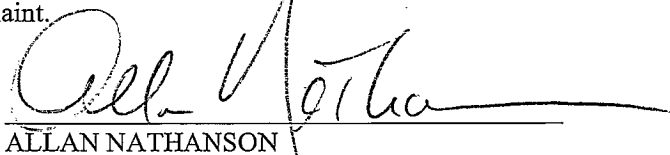
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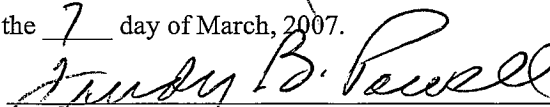
AFFIDAVIT OF ALLAN NATHANSON

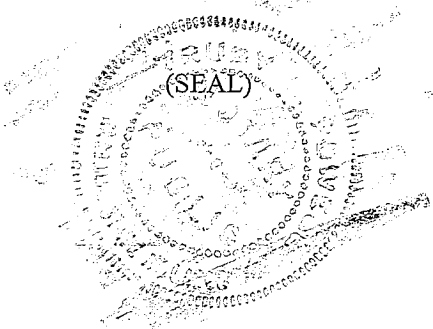
Before me, the undersigned authority, a Notary Public in and for the State of Alabama at Large, personally appeared ALLAN NATHANSON, who being known to me and who being first duly sworn to depose and testify to the following:

I am over the age of majority and a legal resident of Montgomery County, Alabama. Since 1968, I have been a licensed attorney in the State of Alabama. I am one of the defendants in this case. I have reviewed the complaint in detail. I had no involvement in any of the matters alleged in the complaint. I did provide some legal services for the Estate of Ruth H. Lewis who died on or about November 26, 1994. Basically, I obtained Letters of Administration which were issued to Juanita K. Upshaw. My legal representation ceased on or about November 15, 1995. Since 1995 I have not been involved in any way in any of the matters alleged in the complaint nor have I provided any legal representation to anyone in regard to any of the matters alleged in the complaint.


ALLAN NATHANSON

Sworn to and subscribed before me this the 7 day of March, 2007.


NOTARY PUBLIC
My Commission Expires: 2-2-2011



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ALONZO AUSTIN, etc.,

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AFFIDAVIT OF FRED D. GRAY, SR.

Before me, the undersigned authority, a Notary Public in and for the State of Alabama at Large, personally appeared FRED D. GRAY, SR. , who being known to me and who being first duly sworn to depose and testify to the following:

I am over the age of majority and a legal resident of Macon County, Alabama. Since 1954, I have been a licensed attorney in the State of Alabama. I am one of the defendants in this case. I have reviewed the complaint in detail. I was not involved in any way in any of the matters alleged in the complaint. I did not represent anyone in regard to any of the matters alleged in the complaint.

FRED D. GRAY, SR.

Sworn to and subscribed before me this the 7th day of March, 2007

(SEAL)

~~NOTARY PUBLIC~~

My Commission Expires: 2-2-2011